

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

TEKWELD SOLUTIONS, INC.
Employer

and

Case 29-RC-099621

WAREHOUSE PRODUCTION SALES
AND ALLIED SERVICES EMPLOYEES
UNION, LOCAL 811
Petitioner

ORDER

The Employer's Motion for Reconsideration of the Board's November 11, 2014 order is denied as it raises no issue not previously considered.¹

PHILIP A. MISCIMARRA, MEMBER

KENT Y. HIROZAWA, MEMBER

HARRY I. JOHNSON, III, MEMBER

Dated, Washington, D.C., December 11, 2014.

¹ On August 15, 2014, the Board (with Member Miscimarra dissenting in part) sustained the challenges to the ballots of 23 employees; because the parties agreed that 6 additional challenged ballots should be opened and counted, the Board directed the Regional Director to open and count those ballots, serve the revised tally of ballots on the parties, and issue the appropriate certification. See Tekweld Solutions, Inc., 361 NLRB No. 18 (2014). The Regional Director duly issued the revised tally of ballots (which showed 26 votes for the Petitioner, 22 votes against representation, and 1 void ballot) on August 27. On September 2, the Employer sent a letter "objecting" to the revised tally of ballots on the ground that it did not include the 23 ballots the Board had ruled should not be counted. The Regional Director issued a Certification of Representative on September 5, and by letter dated September 8 advised the Employer that he would not process the September 2 letter as an objection because (1) it was not timely and (2) it also raised a matter that the Board had already decided. The Employer sought special permission to appeal the Regional Director's September 8 letter; the Board's November 11 order granted the request for special permission to appeal but denied the appeal on the merits. In doing so, the Board declined to rely on the portion of the Regional Director's September 8 letter that described the September 2 letter as falling outside the time period for objections to a rerun election, but the remainder of the Regional Director's rationale was left undisturbed. The Board's order did not, as the Employer now contends, find that the September 2 letter was a timely objection. Rather, by denying the Employer's appeal on the merits, the Board expressly approved the Regional Director's refusal to process the September 2 letter as an objection. Accordingly, the Regional Director acted properly in issuing the Certification of Representative, and the Employer's contention that the Board, rather than the Regional Director, should have issued the certification is without merit. See Board's Rules & Regulations Sec. 102.69(h). Member Miscimarra adheres to the views expressed in his partial dissent, referenced above, but agrees with the denial of the Employer's Motion for Reconsideration on the basis that it fails to raise issues not previously considered.